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**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

Kimalae R Smith,

Plaintiff,

v.

Kilolo Kijakazi, Acting  
Commissioner of Social Security,

Defendant.

No. 2:21-cv-0326-DB

**STIPULATION FOR THE AWARD  
AND PAYMENT OF ATTORNEY  
FEES AND EXPENSES PURSUANT  
TO THE EQUAL ACCESS TO  
JUSTICE ACT; AND ORDER**

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of TWO THOUSAND FIVE-HUNDRED FORTY-FIVE DOLLARS and 21/100 (\$0.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and cost in the amount of zero dollars (\$0.00) under 28 U.S.C. §1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. § 2412(d).

1 After the Court issues an order for EAJA fees to Plaintiff, the government will  
2 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to  
3 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability  
4 to honor the assignment will depend on whether the fees are subject to any offset  
5 allowed under the United States Department of the Treasury's Offset Program. After  
6 the order for EAJA fees is entered, the government will determine whether they are  
7 subject to any offset.

8 Fees shall be made payable to Plaintiff, but if the Department of the Treasury  
9 determines that Plaintiff does not owe a federal debt, then the government shall cause  
10 the payment of fees, expenses and costs to be made directly to Counsel, pursuant to  
11 the assignment executed by Plaintiff. Any payments made shall be delivered to  
12 Plaintiff's counsel, Jonathan O. Peña.

13 This stipulation constitutes a compromise settlement of Plaintiff's request for  
14 EAJA attorney fees, and does not constitute an admission of liability on the part of  
15 Defendant under the EAJA or otherwise. Payment of the agreed amount shall  
16 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or  
17 Counsel including Counsel's firm may have relating to EAJA attorney fees in  
18 connection with this action.

19 This award is without prejudice to the rights of Counsel and/or Counsel's firm  
20 to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the  
21 savings clause provisions of the EAJA.

22 Respectfully submitted,

23  
24 Dated: May 5, 2022

25 /s/ Jonathan O. Peña  
26 JONATHAN O. PEÑA  
27 Attorney for Plaintiff

28 Dated: May 5, 2022

PHILLIP A. TALBERT

United States Attorney  
PETER K. THOMPSON  
Acting Regional Chief Counsel, Region IX  
Social Security Administration

By: \* Linda H Green  
Linda H Green  
Special Assistant U.S. Attorney  
Attorneys for Defendant  
(\*Permission to use electronic signature  
obtained via email on May 4, 2022).

**ORDER**

Pursuant to the parties' stipulation, IT IS SO ORDERED.

DATED: May 6, 2022

/s/ DEBORAH BARNES  
UNITED STATES MAGISTRATE JUDGE